

MONTANA LEGISLATIVE HISTORY

Chapter 226 19 85

Bill H 272 S _____

Original bill & history ☒ C

H. Committee on Business & Labor

Hearing Date(s) 1-28 ☒ C

_____ C

_____ C

_____ C

Date Out _____ C

S. Committee on Labor & Employment

Hearing Date(s) 3-12 ☒ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

4/11 HEARING
 4/19 COMMITTEE REPORT-BILL CONCURRED
 4/22 2ND READING CONCURRED 49 0
 4/23 3RD READING CONCURRED 47 2

RETURNED TO HOUSE
 4/25 SIGNED BY SPEAKER
 4/25 SIGNED BY PRESIDENT

4/25 TRANSMITTED TO GOVERNOR
 5/06 SIGNED BY GOVERNOR
 CHAPTER NUMBER 677 EFFECTIVE DATE: 5/06/85

HB 271 INTRODUCED BY SCHYE, H. HAMMOND
 VOLUNTEER HOSPICE PROGRAMS EXEMPT FROM LICENSING

1/19 INTRODUCED
 2/15 HEARING
 DIED IN COMMITTEE

HB 272 INTRODUCED BY WALLIN
 PAY INTEREST WHEN REPAYING FRAUDULENTLY OBTAINED
 UNEMPLOYMENT COMPENSATION
 BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

1/19 INTRODUCED
 1/19 REFERRED TO BUSINESS & LABOR
 1/21 FISCAL NOTE REQUESTED
 1/25 FISCAL NOTE RECEIVED
 1/28 HEARING
 1/29 COMMITTEE REPORT-BILL PASS AS AMENDED
 1/31 2ND READING PASS 93 4
 2/01 3RD READING PASS 99 0

TRANSMITTED TO SENATE
 2/06 REFERRED TO LABOR & EMPLOYMENT RELATIONS
 3/12 HEARING
 3/13 COMMITTEE REPORT-BILL CONCURRED
 3/15 2ND READING CONCURRED 48 0
 3/18 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
 3/23 SIGNED BY SPEAKER
 3/23 SIGNED BY PRESIDENT

3/25 TRANSMITTED TO GOVERNOR
 3/29 SIGNED BY GOVERNOR
 CHAPTER NUMBER 226 EFFECTIVE DATE: 10/01/85

HB 273 INTRODUCED BY PISTORIA
 PROHIBIT LICENSING OF VENDING MACHINES THAT DISPENSE
 CIGARETTES AND FOOD

1/19 INTRODUCED
 1/19 REFERRED TO BUSINESS & LABOR
 1/24 HEARING
 DIED IN COMMITTEE

HB 274 INTRODUCED BY HOLLIDAY
 REVISING SERVICE RETIREMENT PROVISIONS UNDER GAME

HOUSE BILL NO. 272

INTRODUCED BY Nelson

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A PERSON
FRAUDULENTLY OBTAINING UNEMPLOYMENT COMPENSATION TO PAY
INTEREST ON BENEFIT AMOUNTS THAT HE MUST REPAY; AMENDING
SECTION 39-51-3201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-51-3201, MCA, is amended to
read:

"39-51-3201. Making false statement or representation
or failing to disclose material fact in order to obtain or
increase benefits -- administrative penalty and remedy. A
person who makes a false statement or representation knowing
it to be false or knowingly fails to disclose a material
fact in order to obtain or increase any benefit or other
payment under this chapter or under an employment security
law of any other state or territory or the federal
government, either for himself or for any other person, is:

(1) disqualified for benefits thereafter for a period
of not more than 52 weeks, beginning with the first
compensable week following the date of such determination by
the department, the length of time of the disqualification

as herein described to be determined by the department in
accordance with the severity of each case; and

(2) required to repay to the department, either
directly or as authorized by the department, by offset of
future benefits to which he may be entitled, or by a
combination of both such methods, a sum equal to the amount
wrongfully received by him plus interest at the rate of 18%
a year computed from the time the false statement or
representation or the failure to disclose a material fact
occurred, except that the interest due may not be used to
offset future benefits. However, he is not required to
repay any amount wrongfully obtained more than 5 years prior
to the date of the department's determination that he made
false statements, willful nondisclosure, or
misrepresentation."

NEW SECTION. Section 2. Extension of authority. Any
existing authority of the department of labor and industry
to make rules on the subject of the provisions of this act
is extended to the provisions of this act.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received January 21, 19 85, there is hereby submitted a Fiscal Note for H.B. 272 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

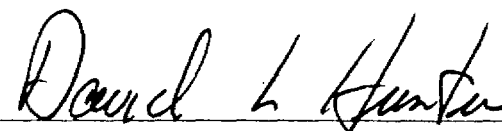
"An Act To Require A Person Fraudulently Obtaining Unemployment Compensation To Pay Interest On Benefit Amounts That He Must Repay"

ASSUMPTIONS:

1. It is estimated that the Department of Labor and Industry will discover \$120,000 (\$10,000 per month) in fraudulent overpayments each fiscal year of the biennium.
2. It is estimated that the Department of Labor and Industry will recover \$30,000 in the Fiscal Year 1986 and \$54,000 in Fiscal Year 1987. An average interest rate of 18% will be applied to these recovered dollars.
3. It is assumed the collections are made in the 6th month of each fiscal year.

FISCAL IMPACT:

	<u>FY 1986</u>	<u>FY 1987</u>
Current Law	-0-	-0-
Proposed Law	<u>\$2,700</u>	<u>\$4,900</u>
Net Increase	<u>\$2,700</u>	<u>\$4,900</u>



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 25, 1985

STATUS SHEET

49TH

LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND LABOR

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
233	1-17		REREFERRED TO AGRICULTURE						
234	1-17	2-11/2-13	2-13		2-13				
236	1-17	2-6	2-6	2-6					
237	1-17								
251	1-18	1-25	1-25			1-25			
261	1-18	1-23/1-25		TABLED					
263	1-19	1-22/1-23 1-24	1-24			1-24			
264	1-18	1-22/1-23	1-23			1-23			
272	1-19	1-28	1-28			1-28			
273	1-19	1-24/2-20		TABLED					
278	1-19	1-28		TABLED					
280	1-19	1-25	1-25			1-25			
284	1-19	1-29/2-5 2-7	2-7			2-7			
285	1-19	1-25	1-25	1-25					
290	1-21		REREFERRED TO HUMAN SERVICES						
295	1-21	1-30/2-14	2-14			2-14	(SUBCOMMITTEE)		

Use a separate sheet for Senate, House Bills, and Resolutions

Representative Kadas asked Mr. Gary Blewett of the Department of Labor and Industry, what the fiscal impact would be. Mr. Blewett explained that an impact could not be contributed to the passing of House Bill 213.

Mr. Blewett explained further that an advisory council has been appointed by the governor to study this issue. An effort is being made to clarify the definition of an independent contractor.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 213 was closed.

HOUSE BILL NO. 272: Hearing commenced on House Bill 272. Representative Norm Wallin, District #78, sponsor of the bill explained that this bill is at the request of the Department of Labor and Industry. House Bill 272 would require that anyone who fraudulently obtains unemployment benefits pay 18 percent annual interest on the amount wrongfully received. Representative Wallin distributed to committee members Exhibit 4, which is attached hereto.

Proponent Dave Wanzenried, Commissioner of the Department of Labor and Industry, explained the proposed amendments which is Exhibit 4.

Proponents George Allen representing the Montana Retail Association, Chad Smith, representing the Unemployment Compensation Advisory Association, and Riley Smith, representing the National Federation of Business and the Montana Homebuilders, all offered their support of House Bill 272.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 272 was closed.

ACTION ON HOUSE BILL NO. 213: Representative Thomas made a motion that House Bill DO PASS. Second was received and House Bill 213 was PASSED unanimously.

ACTION ON HOUSE BILL NO. 278: Representative Brandewie made a motion that House Bill 278 be TABLED. Second was received and House Bill 278 was TABLED unanimously.

ACTION ON HOUSE BILL NO. 272: Representative Schultz made a motion that House Bill 272 DO PASS. Representative Schultz then moved the amendments which PASSED unanimously. House Bill 272 DO PASS AS AMENDED by unanimous vote.

DAILY ROLL CALL
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 28, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich			✓
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

STANDING COMMITTEE REPORT

January 28

1935

19.....

SPEAKER

MR.

BUSINESS AND LABOR

We, your committee on

HOUSE

272

having had under consideration Bill No.

FIRST

reading copy (WHITE)
color

PAY INTEREST WHEN REPAYING FRAUDULENTLY OBTAINED
UNEMPLOYMENT COMPENSATION

Respectfully report as follows: That HOUSE Bill No. 272

BE AMENDED AS FOLLOWS:

1. Page 2, line 10
Following: "that"
Strike: "the interest due"
Insert: "future benefits"
2. Page 2, line 11
Following: "offset"
Strike: "future benefits"
Insert: "the interest due"

AND AS AMENDED,

DO PASS

VISITOR'S REGISTER

HOUSE BUSINESS AND LABOR COMMITTEE

BILL House Bill 272

DATE January 28, 1985

SPONSOR Representative Wallin

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CHAIRMAN--LYNCH, J. D.
NORMAL SCHEDULE==> SITE: ROOM 413/415

DAYS: TU-TH-SAT

TIME: 1:00-3:00 P.M.

SECRETARY-DAILY, BETH

---BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES---	COMMITTEE ACTION---	REREFERRED TO COMM---	DATE OUT---
HB0015	1/12	1/15	1/15	CONCUR		1/15
WILLIAMS, J. MELVIN	(MEL)		DENYING CERTAIN UNEMPLOYMENT BENEFITS TO SCHOOL EMPLOYEES			
HB0124	1/18	1/29	1/29	CONCUR as amended		1/29
ADDY, KELLY			UNION AS RECOGNIZED EXCLUS. REPRESENTATIVE TO GUARANTEE CERTAIN RIGHTS			
HB0137	1/26	1/31	1/31	CONCUR		1/31
DRISCOLL, JERRY L.			WAGE BASE PERIOD OF DISABLED PERSON FILING FOR UNEMPLOYMENT INSURANCE			
HB0213	2/04	3/05	3/5	CONCUR		3/5
BROWN, JAN			EXEMPTING DIRECT HOME SALESPeOPLE FROM WORKERS' COMPENSATION			
HB0251	2/06	3/05	3/5	CONCUR		3/5
RAMIREZ, JACK			PROVIDE 2 YEAR DISCOVERY STAT. OF LIMITATIONS FOR INDUSTRIAL DISEASE CLAIMS			
HB0272	2/06	3/12	3/12	CONCUR		3/12
WALLIN, NORM			PAY INTEREST WHEN REPAYING FRAUDULENTLY OBTAINED UNEMPLOYMENT COMPENSATION			
HB0284	2/13	3/26	3/21, 3/26	CONCUR		3/26
HARPER, HAL			MAKE UNEMPLOYMENT COMPENSATION TRUST FUND SOLVENT			
HB0285	2/04	2/07	2/7, 2/9	ADVERSE REPORT		2/9
LORY, EARL C.			EXCLUDING NEWSPAPER AD SALESMEN FROM OVERTIME PROVISIONS			
HB0306	2/08	3/05	3/5	CONCUR		3/5
MENAHAN, WILLIAM (RED)			REVISION OF BOARD OF ATHLETICS LAWS			
HB0375	4/15	4/17	4/16, 4/17	CONCUR		4/17
BARDANOUVE, FRANCIS			ESTABLISHING STATE EMPLOYEE COMPENSATION PLANS & BENEFIT LEVELS/FY 86 & 87			
HB0378	2/11	3/07	3/7, 3/12	TABLED		
DONALDSON, GENE			REQUALIFYING FOR UNEMPLOYMENT INSURANCE BENEFITS			

March 12, 1985

is, you are going to get indemnified if you lose your arm. You are going to get those benefits because no amount of retraining is going to bring back your arm.

Representative Bradley closed on House Bill 453.

The hearing was closed on House Bill 453.

CONSIDERATION OF HOUSE BILL 272:

Chairman Lynch called on Representative Wallin, sponsor of House Bill 272. He carried the bill for the Department of Labor. Simply, everything is covered on five lines, lines 7 through 11 on page 2.

PROPOSERS OF HOUSE BILL 272:

Dave Wanzenried, Commissioner of Department of Labor and Industry, asked that the bill be concurred in.

OPPOSERS OF HOUSE BILL 272:

None were present.

QUESTIONS FROM THE COMMITTEE:

Senator Blaylock asked Dave Wanzenried if we have to have the interest rate at 18% Dave Wanzenried replied that is an interest rate the employers pay on when they pay wages.

Representative Wallin closed on House Bill 272.

The hearing was closed on House Bill 272.

CONSIDERATION OF HOUSE BILL 467:

Chairman Lynch called on Representative Tom Hannah, sponsor of House Bill 467. This bill is designed to clarify what the current language says in relationship with non-association labor organizations. You don't have to belong to labor organizations if 1) your religion tells you not to, 2) if you have a personal belief against it, 3) if you have a problem with a particular organization; what this will do is allow those people who have trouble with a particular organization to be exempt from belonging to that organization.

PROPOSERS OF HOUSE BILL 467:

Juanita Kajkowski, who introduced herself as a Montana

March 12, 1985

Dave Wanzenried replied the department will have regional hearings right now. He anticipates having seven hearings around the state.

Senator Thayer referred to the top of page 2, the definition of locality and asked how the department is going to interpret "locality." Dave Wanzenried answered that is the language out of the statute.

Senator Aklestad asked Dave Wanzenried, under the current way prevailing wage is set, if the commissioner doesn't have established jurisdiction that would establish prevailing wage? Dave Wanzenried answered it is geographical.

Senator Aklestad asked Dave Wanzenried whether the bill outlines specific counties in a certain jurisdiction. Dave Wanzenried replied yes.

Representative Addy closed on House Bill 387.

The hearing was closed on House Bill 387.

EXECUTIVE ACTION ON HOUSE BILL 387:

Senator Towe made a motion that House Bill 387 Be Concurred In. On a voice vote, the committee voted unanimously that HOUSE BILL 387 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 467:

Senator Keating moved that House Bill 467 Be Concurred In. On a voice vote, the committee voted unanimously that HOUSE BILL 467 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 272:

Senator Keating moved that House Bill 272 Be Concurred In. Senator Towe asked about a portion of the bill on page 1, line 10 "except that future benefits may not be used to offset the interest due. . . ."

Dave Wanzenried answered that under current law it is possible for the department to offset future benefits for the person receiving payment. He said you don't want to offset interest with future benefits but you want to offset benefits with interest.

Harold Kansier, Department of Labor and Industry, said the law now says that when an individual has drawn benefits he was entitled to, in order to collect those benefits the department can use benefits the individual is currently

March 12, 1985

entitled to to pay for the older payment. What the department can not do, and this is what the federal government is talking about, is to use the benfits to pay for the interest that has accrued.

Senator Keating asked Mr. Kansier how the department collects interest due. Harold Kansier replied that not all of the older payments are collected by offset; they just have to go out and collect it.

On a voice vote, the committee voted that HOUSE BILL 567 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 378;

Jim Murry said the Montana AFL-CIO feels non-insured employment should continue to be used for requalifying employment compensation benefits. On page 1, line 25, he suggested the language "varifiable" employment and strike the rest of the amendments throughout the bill.

Dave Wanzenried stated that in order for the department to have any control over the program it needs to have the bill the way it is written. He recommended the bill be passed in current form or not passed at all.

Senator Haffey asked Dave Wanzenried if this bill was introduced to try to solve a problem that really affects only 20 or 40 persons a year. Dave Wanzenried replied it was introduced because the federal government has required the state to enact two different programs to improve quality control. This is one of the areas where Montana needs to do something. 600 people a year requalify; of that amount, around 5 to 10% perform noncovered jobs.

Senator Haffey followed up on his first question. 600 people per year requalify, 5 to 105 of whom are requalified through getting the employment with non-covered employers, so that is 30-60. Within that group do we find some who are not working that are faking it?

Dave Wanzenried replied roughly half.

Senator Haffey said now we are down to 15-30, and it is those 15-30 people for whom the federal government wants us to improve our quality control. Dave Wanzenried replied yes.

Senator Towe offered an amendment. On page 1, line 25, insert "may be in covered or verifiable noncovered

STANDING COMMITTEE REPORT

March 12

19 85

MR. PRESIDENT

LABOR AND EMPLOYMENT RELATIONS

We, your committee on

having had under consideration, **HOUSE BILL**

No. **272**

third

reading copy (**blue**)
color

PAY INTEREST WHEN REPAYING FRAUDULENTLY OBTAINED UNEMPLOYMENT COMPENSATION

Respectfully report as follows: That, **HOUSE BILL**

No. **272**

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

SENATOR J.D. LYNCH

Chairman.

Date 3/12/85

[illegible]

Each day attach to minutes.